

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In re:)	
)	
NANCY E. PATCHELL,)	Chapter 13
DEBTOR.)	Case No. 02-45551-JBR
_____)	

**ORDER ON THE DEBTOR'S NOTICE OF IMPAIRMENT OF REAL ESTATE AND
MOTION FOR ORDERS**

This matter came before the Court for hearing on the Debtor's Notice of Impairment of Real Estate and Motion for Orders in which this *pro se* Debtor seeks an order (a) authorizing her to file a Chapter 13 plan which will include the sale of her property which has an address of 9 Arlene Drive, Paxton, Massachusetts but actually straddles the Paxton/Worcester town line (the "Real Estate") and suggests that a new market appraisal be conducted; and (b) protecting her from future suit "over an impaired title"¹ or conduct an independent investigation with respect to the impairment. At the hearing the Debtor requested guidance as to whether she needs to disclose the problems she believes exist to prospective buyers, and expressed concerns about her ability to market the Real Estate because (1) a deck on an abutting property located at 14 Sunnyview Heights encroaches on the real Estate and (2) she believes the Real Estate benefits from an exclusive easement or easements over the abutting lots but believes she cannot use those easements to run water and sewer lines as the owners of those lots have placed their own pipes in such a way as to interfere with her easement. As the Court explained at the hearing, this Court is a court of limited jurisdiction and cannot quiet title to the Real Estate, if that is what the Debtor is seeking, in the current posture of this case. Recognizing that limitation, the Court, however,

¹At the hearing the Debtor explained that she believed that she does not have "marketable title" because of the encroachment and impairment of an easement or easements that she believes benefit the Real Estate.

may and does order as follows:

1. The Debtor shall file a Chapter 13 plan within 45 days of the date of this Order or seek an extension of time within the 45 days.


2. The Debtor may contact a real estate broker in order to seek employment of the broker to market and sell the Real Estate. The Debtor, however, must seek the Court's permission, by separate motion and affidavit in accordance with Rule 6005-1 and Rule 2014-1 of the Massachusetts Local Bankruptcy Rules ("MLBR") to employ the broker. The MLBR are available at the Court's website which may be accessed via the Internet at www.mab.uscourts.gov.

3. The Debtor may execute a purchase and sale agreement but the sale of the Real Estate shall be subject to Court approval which must be sought by a motion to sell the Real Estate, along with a Notice of Sale, in accordance with MLBR 6004-1.

4. The Debtor retains whatever rights she currently holds under Massachusetts law with respect to the alleged encroachment on the Real Estate by the deck of the abutting property located at 14 Sunnyview Heights, Worcester, Massachusetts and with respect to whatever valid easements benefit the Real Estate.

5. Nothing in this Order or in any future order authorizing the sale of Real Estate is intended to be a finding that an encroachment exists and if so, whether such encroachment is covered by any title insurance policy held by the Debtor nor is anything herein intended to be a finding as to the existence, validity, or exclusivity of any easement or easements that may benefit the Real Estate.

Dated: August 17, 2006


Joel B. Rosenthal
United States Bankruptcy Judge